

SETTLEMENT AGREEMENT
Central Arkansas Water
Waterview Estates, L.L.C., et. al.

Frequently Asked Questions

1. Why is Central Arkansas Water (CAW) not purchasing the land proposed for development by Waterview Estates, L.L.C., et. al., in Critical Area A? Why should CAW pay the Waterview Estates landowners \$1,000,000?

- A. CAW's priority is the protection of the water quality in Lake Maumelle. The water utility prefers to meet this public responsibility at the lowest cost to ratepayers. In the case of the Waterview Estates lands, the combination diversion ditch and conservation easement protects water quality at a lower cost than acquiring the land by the authority of eminent domain.

In the Waterview Estates land-condemnation lawsuit, CAW has placed a total of \$947,516 in the Registry of Pulaski County Circuit Court. The funds will go toward paying the \$1,000,000 settlement. Payment of the settlement will not affect water rates to customers.

The provisions of the settlement agreement are in accordance with CAW's obligation to protect the drinking water supply and minimize cost to ratepayers.

2. How can Central Arkansas Water assure proper construction of the diversion ditch and what remedies does CAW have in this regard?

- A. The agreement gives CAW review authority over the engineering design plans prior to construction of the diversion ditch. The design plans must include a sedimentation and erosion control plan for the diversion ditch construction. In addition, CAW will have unrestricted access to the construction site, and CAW has the right to have an inspector on-site during construction of the diversion ditch. The agreement provides for a dispute resolution process in the unlikely event CAW's inspector and the developer's engineers disagree on a compliance matter.

3. What about sedimentation and erosion controls during construction of the diversion ditch?

- A. CAW has review authority over the developer's sedimentation and erosion control plan for the diversion ditch prior to the developer's filing the plan with the Arkansas Department of Environmental Quality. The agreement provides additional requirements for sedimentation and erosion control over and above the minimum requirements under existing Arkansas law. CAW has the right to have an on-site inspector present during construction of the diversion ditch to ensure compliance with the sedimentation and erosion control plan.

- 4. What if the Waterview Estates landowners fail to maintain the diversion ditch in a proper manner and in conformity with the approved plan?**
- A. The agreement calls for the Waterview Estates landowners to establish an improvement district that, as a special-purpose, local-government entity under Arkansas law, has the authority to levy taxes. The improvement district will have the responsibility for ensuring the proper maintenance of the diversion ditch. In addition, CAW maintains the right to inspect the diversion ditch at any time. If maintenance of the diversion ditch is not in accordance with the approved plan, the property owners who directly benefit from the diversion ditch may not occupy their homes until the diversion ditch is in compliance with the approved plan.
- 5. What is the status of the land-development agreement that Mr. Rick Ferguson, developer of Waterview Estates, offered last year on an additional 4,000 acres in Critical Area B of the Lake Maumelle Watershed?**
- A. Mr. Ferguson initially proposed entering into an agreement with CAW that would obligate 4,000 additional acres in Critical Area B to development standards consistent with the requirements in the Lake Maumelle Watershed Management Plan (2,000 acres that Mr. Ferguson owns, plus 2,000 acres under the ownership of other landowners who were willing to agree to the initial proposal that Mr. Ferguson put forth). Negotiations on that agreement became extended and increasingly complex, and the other landowners withdrew their land from the agreement until they could review and fully understand the agreement. The attorneys for CAW and attorneys for Mr. Ferguson ultimately were unable to craft an agreement that satisfied important concerns of all parties. CAW made the decision to settle the pending circuit court lawsuit with the diversion ditch and conservation easement agreement on the 301 acres and to focus efforts on the development of appropriate ordinances or other regulatory means necessary for implementation of the Lake Maumelle Watershed Management Plan. Mr. Ferguson has pledged his help in the endeavor on the adoption of the appropriate ordinances necessary to implement the watershed plan.
- 6. Who will be the grantee (recipient) of the conservation easement?**
- A. The parties in the settlement agreement jointly have approached the University of Arkansas at Little Rock (UALR) about the university's accepting the conservation easement as part of its proposed Center of Watershed Excellence.
- 7. What development may occur in the conservation easement area?**
- A. No development may occur within the 122-acre conservation easement area.
- 8. Why is there not a requirement for the conserved land to revert fully to woodland, and will the land's not fully converting back to woodland have an adverse impact on water quality in Lake Maumelle?**

- A. The value to the Waterview Estates landowners of making the conservation easement is to maintain the viewshed of the lake for property owners north of the diversion ditch. Maintaining the viewshed requires a savannah-like landscape with stands of trees interspersed with natural grassland. CAW will participate in the development of the management program for the conservation easement, and subsequent changes to the management program must have the consent of CAW.

9. What happens to the diverted water from the diversion ditch?

- A. The water diverted from the withdrawn lands will be taken by culvert under the ridgeline onto Waterview Estates property, where it will be channeled into retention ponds and eventually find its way into the Arkansas River.

10. Will CAW allow other property owners to divert water out of the Lake Maumelle Watershed? If so, would such additional diversion reduce the sustainable yield of Lake Maumelle?

- A. CAW commissioned a study by the engineering firm of CH₂MHill to evaluate the effectiveness of the Waterview Estates diversion ditch in regard to water quality and sustainable yield. The study found that the diversion ditch approach was unlikely to be applicable to any great degree in the watershed. CH₂MHill made recommendations to improve the design of the Waterview Estates development diversion ditch. Further, the consultant's study found that any potential water diversion would be negligible.